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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

11 CHRISSIE CARNELL BIXLER;  
12 CEDRIC BIXLER-ZAVALA; JANE  
13 DOE #1; MARIE BOBETTE RIALES;  
14 and JANE DOE #2,

15 Plaintiffs,

16 v.

17 CHURCH OF SCIENTOLOGY  
18 INTERNATIONAL; RELIGIOUS  
19 TECHNOLOGY CENTER; CHURCH  
20 OF SCIENTOLOGY CELEBRITY  
21 CENTRE INTERNATIONAL;  
22 DAVID MISCAVIGE; DANIEL  
23 MASTERSON; and DOES 1-25,

24 Defendants.

CASE No. 19STCV29458

[Assigned for All Purposes to:  
Hon. Steven J. Kleifield, Dept. 57]

**SPECIALLY-APPEARING  
DEFENDANT DAVID  
MISCAVIGE'S NOTICE OF  
MOTION AND MOTION TO  
QUASH SERVICE OF SUMMONS  
AND FIRST AMENDED  
COMPLAINT; MEMORANDUM  
OF POINTS AND AUTHORITIES**

*[Declarations of Lynn R. Farny,  
Warren McShane, Stano Sersen,  
Shun Tokunaga, Ervin Kisded, and  
Davide Greco; Request for Judicial  
Notice; and [Proposed] Order filed  
concurrently herewith]*

Date: May 12, 2021  
Time: 8:30 a.m.  
Dept.: 57

RESERVATION ID:  
368970839993631373510631

Action Filed: August 22, 2019  
Trial Date: Not Set

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on May 12, 2021 at 8:30 a.m., or as soon  
3 thereafter as counsel shall be heard, in Department 57 of the Superior Court  
4 for the State of California for the County of Los Angeles, located at 111 N. Hill  
5 Street, Los Angeles, California, 90012, Defendant David Miscavige will  
6 specially appear and move the Court for an order quashing the purported  
7 service of the summons and First Amended Complaint on Mr. David  
8 Miscavige.

9 The Motion is made under the authority of *Code of Civil Procedure*  
10 § 418.10 on the ground that Mr. Miscavige was never served with the  
11 summons and operative complaint.

12 The Motion is made upon this Notice, the attached memorandum of  
13 points and authorities, the Declarations of Lynn R. Farny, Warren McShane,  
14 Stano Sersen, Shun Tokunaga, Ervin Kisdred, and Davide Greco, the Request  
15 for Judicial Notice, all pleadings and documents on file in this action, such  
16 further papers and authorities as may be filed in support hereof, and oral  
17 argument as may be presented at the hearing on the Motion.

18  
19 DATED: January 11, 2021 ELKINS KALT WEINTRAUB REUBEN  
20 GARTSIDE LLP

21 By: 

22 JEFFREY K. RIFFER

23 Attorneys for Specially-Appearing Defendant  
24 David Miscavige  
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 Mr. David Miscavige is the ecclesiastical leader of the Scientology  
4 religion and the Chairman of the Board of Religious Technology Center  
5 (“RTC,” another defendant).

6 Mr. Miscavige should never have been named in this lawsuit.

7 Plaintiffs filed this lawsuit more than sixteen months ago, and have  
8 never satisfied their fundamental obligation to serve Mr. Miscavige with the  
9 summons or any version of the complaint. In that time, they have filed  
10 demonstrably false Proofs of Service (which were quashed by this Court),  
11 pursued a baseless motion for leave to serve by publication (which was  
12 rejected), and now attempt to rely upon woefully insufficient substitute  
13 service.

14 Each of these false and/or failed service attempts followed long periods of  
15 inactivity, during which Plaintiffs made no attempts to personally serve Mr.  
16 Miscavige.

17 Now, sixteen months after filing their lawsuit and nine months after  
18 filing the First Amended Complaint (“FAC”), Plaintiffs purport to have served  
19 Mr. Miscavige (via substitute service) with the FAC at a time when Mr.  
20 Miscavige was well known to have been thousands of miles away in  
21 Clearwater, Florida. Remarkably, Plaintiffs *again* filed false Proofs of Service.

22 Plaintiffs’ purported service of the FAC should be quashed.

23 II. STATEMENT OF FACTS

24 A. This Court Quashed Plaintiffs’ First False Proof of Service

25 Plaintiffs filed their original Complaint on August 22, 2019, and have  
26 been playing games ever since.

27 On October 23, 2019, Plaintiffs filed a purported Proof of Service of the  
28

1 summons and original complaint stating, under penalty of perjury, that Mr.  
2 Miscavige was served by Robert Hall, a registered process server, via  
3 substitute service on October 17, 2019 at 10:20 a.m. at 6331 Hollywood  
4 Boulevard, Los Angeles, CA 90028.

5 There were three fatal flaws.

6 First, Hall lacks credibility. A Los Angeles Superior Court judge (Hon.  
7 William F. Fahey) found Hall's testimony regarding service in another case to  
8 be "evasive and not credible." *See City Breeze, LLC v. Shahi*, No. B259117,  
9 2016 WL 6236422, at \*2-3 (Cal. Ct. App. Oct. 25, 2016).<sup>1</sup> The Court of Appeal  
10 in *City Breeze* affirmed the trial court order setting aside a default judgment  
11 due to Hall's fraudulent proof of service; Hall's behavior was so improper that  
12 the party who hired Hall did not challenge, on appeal, the trial court's finding  
13 of Hall's fraud. *See id.* at \*2-4, \*7.

14 Second, Hall's purported service was demonstrably false. Contrary to  
15 Hall's sworn Declaration of Due Diligence, the security video archive  
16 recordings maintained by Defendants showed that Hall never approached or  
17 entered 6331 Hollywood Blvd. on the dates and times alleged. Moreover, as  
18 demonstrated in a declaration submitted to this Court in support of  
19 Defendants' motions to quash by Lewis Miranda, the lobby receptionist for the  
20 building at 6331 Hollywood Boulevard in Los Angeles (which notably is *not*  
21 RTC's office address<sup>2</sup>), Hall never asked for Mr. Miscavige or left any

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22 <sup>1</sup> The Court should take judicial notice of the unpublished opinion in *City*  
23 *Breeze*. *See People v. Hill*, 17 Cal. 4th 800, 847-48 (1998) (taking judicial  
24 notice of unpublished opinion citing same prosecutor for prosecutorial  
25 misconduct in a separate case); *see also* Request for Judicial Notice, Ex. A.

26 <sup>2</sup> Nor is it Mr. Miscavige's "dwelling house" or "usual place of abode." *Code of*  
27 *Civil Procedure* § 415.20(b). Instead, 6331 Hollywood Boulevard is the office  
28 address of Church of Scientology International ("CSI," another defendant).  
FAC ¶ 7. To be clear, no one lives at 6331 Hollywood Boulevard. Declaration  
of Lynn R. Farny ("Farny Decl."), ¶2.

documents for Mr. Miscavige. Farny Decl., Ex. D (Declaration of Lewis Miranda (“Miranda Decl.”), ¶¶ 7-10).

Third, Mr. Miscavige never received a copy of the summons and original complaint in the mail, suggesting that no such mailing was made.

This Court granted Mr. Miscavige’s motion to quash the purported service. *See* RJN, Ex. B (March 11, 2020 Tentative Ruling, later adopted) at 4-5. Specifically, the Court ruled:

The weight of the evidence cuts against Plaintiffs. The presumption of service is outweighed by the declarations of Lynn Farney, Warren McShane and Lewis Miranda. The motion to quash is GRANTED as to Miscavige. This is not a determination that the proofs of service were “fraudulent” — service was not accomplished, so Defendant Miscavige has not been properly brought into the action. ... The motion to quash as to Miscavige is granted.

*Id.*

B. Plaintiffs Delayed Any Attempt to Serve the First Amended Complaint for *Nine Months*

On February 28, 2020, twelve days before this Court’s March 11, 2020 Order quashing Plaintiffs’ purported service of the original complaint on Mr. Miscavige, Plaintiffs filed the FAC. Plaintiffs made no attempt to personally serve Mr. Miscavige with the FAC, however, for at least *nine months*.

After all this time, Plaintiffs staged repeated service attempts on Mr. Miscavige in Los Angeles at a time when it was public knowledge that Mr. Miscavige was thousands of miles away in Clearwater, Florida.

Plaintiffs assert that on November 21, 2020, November 25, 2020, and December 2, 2020, they attempted service on Mr. Miscavige, almost simultaneously, at 6331 Hollywood Boulevard, Los Angeles, California 90028 (defendant Church of Scientology International (“CSI”)’s office address), and 1710 Ivar Avenue, Los Angeles, California 90028 (defendant RTC’s office address). *See* Declaration of Due Diligence of Carlos Fernandez (“Fernandez

Decl.”); *see also* Farny Decl., ¶ 5; Declaration of Warren McShane (“McShane Decl.”), ¶ 2. None of these attempts was sufficient to confer jurisdiction over Mr. Miscavige.

1. 6331 Hollywood Boulevard

*The office building at 6331 Hollywood Boulevard is not an appropriate location to serve Mr. Miscavige.* It is not his “dwelling house, usual place of abode, [or] usual place of business.” *Code of Civil Procedure* § 415.20(b).

Mr. Miscavige is the Chairman of the Board of RTC, but RTC’s address is 1710 Ivar Avenue, *not* 6331 Hollywood Boulevard. *See* McShane Decl., ¶ 2.

Plaintiffs know this. Their FAC *admitted* that RTC’s primary place of business and headquarters is located at 1710 Ivar Avenue. FAC ¶ 8.

Plaintiffs’ baseless assertion that Mr. Miscavige *resides* at 6331 Hollywood Boulevard and thus may be served there, is incorrect. *See* FAC ¶ 10; *see also* Fernandez Decl.

The building at 6331 Hollywood Boulevard is not a residence at all. It is instead the office address for CSI, a separate legal entity from RTC. Farny Decl., ¶ 2; *see also* FAC ¶ 4 (alleging 6331 Hollywood Boulevard is “CSI’s primary place of business and headquarters”).

Mr. Miscavige does not reside at 6331 Hollywood Boulevard. *See* Farny Decl., ¶ 2 (declaring that 6331 Hollywood Boulevard is “not designed for, or used as, a personal residence for anyone, including Mr. Miscavige”).

Thus, any purported attempts to serve Mr. Miscavige at 6331 Hollywood Boulevard are invalid and should be quashed.

2. 1710 Ivar Avenue

Plaintiffs’ process server claims to have made three attempts to serve Mr. Miscavige at 1710 Ivar Avenue. These attempts were inadequate – they did not meet the statutory requirements for service of process, and it was well



1 known that Mr. Miscavige was not in Los Angeles, nor the state of California,  
2 when service was allegedly attempted.

3 ***November 21, 2020***

4 On November 21, 2020 at 9:54 a.m., a man, who has since been  
5 identified as Carlos Fernandez, approached Stano Sersen, a CSI security  
6 guard, who was standing outside on the sidewalk. Declaration of Stano Sersen  
7 (“Sersen Decl.”), ¶ 2.

8 Fernandez was wearing a backpack and did not have any papers in his  
9 hands. *Id.* Indeed, as shown in security footage, he was holding only a coffee  
10 cup. Farny Decl., ¶ 6 (attaching screenshots of surveillance video footage).<sup>3</sup>  
11 Fernandez pointed to 1710 Ivar Avenue and asked Sersen if this was the place  
12 to drop a “package” for David Miscavige. Sersen Decl., ¶ 2. Sersen said it was  
13 not, and Fernandez left. *Id.*

14 Fernandez did not ask to meet with Mr. Miscavige. *Id.* ¶ 3. He did not  
15 explain that he was attempting to serve a summons and complaint (or  
16 anything else) on Mr. Miscavige (or anyone else), or ask if there was anyone  
17 present who could assist him in that effort. *Id.* In fact, Fernandez made no  
18 attempt to ascertain whether Sersen even knew who Mr. Miscavige was. *Id.*

19 ***November 25, 2020***

20 As verified by security video footage, on November 25, 2020 at 12:46  
21 p.m. (*not* 9:54 a.m. as represented, under penalty of perjury, by Fernandez in  
22 his Declaration of Due Diligence), Fernandez approached Shun Tokunaga, a  
23 mail clerk who was working at 1710 Ivar Avenue. Declaration of Shun  
24 Tokunaga (“Tokunaga Decl.”), ¶¶ 1-2; Farny Decl., ¶ 7 (attaching screenshots  
25 of surveillance video footage).

26  
27  
28 <sup>3</sup> The complete security video footage will be made available to the Court upon  
request.

1 Tokunaga had just been receiving packages through an open door to  
2 1710 Ivar Avenue when Fernandez approached. *Id.* ¶ 2. Contrary to  
3 Fernandez’s Declaration of Due Diligence, Tokunaga did not open the door for  
4 Fernandez as the door was already open. *Compare* Declaration of Due  
5 Diligence *with* Tokunaga Decl., ¶ 2. Fernandez was wearing a backpack and  
6 carrying a phone. Tokunaga Decl., ¶ 3. He did not have any papers in his  
7 hands. *Id.*

8 Fernandez not only concealed his true purpose, he also failed to give  
9 enough information that a reasonable person could understand what he  
10 wanted. Specifically, Fernandez told Tokunaga that he had a “delivery” for  
11 David Miscavige, and asked whether Miscavige was there. *Id.* ¶ 4.

12 Tokunaga, a mail clerk, reasonably understood that Fernandez was a  
13 delivery person. Tokunaga replied to Fernandez’s question of whether Mr.  
14 Miscavige was there, by stating “no.” Tokunaga asked Fernandez for an  
15 invoice. *Id.*

16 Fernandez said that he would check on the invoice and come back later.  
17 *Id.* Then Fernandez left. *Id.*

18 Fernandez did not explain that he was attempting to serve a summons  
19 and complaint (or anything else) on Mr. Miscavige (or anyone else), or ask if  
20 there was anyone present who could assist him in that effort. *Id.* ¶ 6.

21 In fact, Fernandez made no attempt to ascertain whether Tokunaga  
22 even knew who Mr. Miscavige was. *Id.* ¶ 5. Instead, he pretended to have a  
23 package to deliver and then left in purported search of a fictional invoice. *See*  
24 *id.* ¶ 4.

25 Had Fernandez made any reasonable efforts to serve Mr. Miscavige  
26 personally, he would have learned that Tokunaga has never met or spoken  
27 with Mr. Miscavige, and would not know how to contact him. *Id.* ¶ 7.

1           ***December 2, 2020***

2           Fernandez represents, under penalty of perjury in his Declaration of  
3 Due Diligence, that at approximately 3:20 pm on December 2, 2020, he rang  
4 the bell to seek entry to 1710 Ivar Avenue. Fernandez Decl. But the  
5 building's security video footage reveals that he did not. Farny Decl. ¶ 8  
6 (attaching screenshots of surveillance video footage).

7           Instead, Fernandez walked uninvited and unannounced into 1710 Ivar  
8 Avenue through a door that was temporarily ajar. Declaration of Ervin Kisded  
9 ("Kisded Decl.") ¶¶ 4-6.

10          Ervin Kisded, a mail and freight clerk, was in the shipping room at the  
11 time with Davide Greco, a mail and transport clerk. *Id.* ¶ 4. Kisded did not  
12 hear the doorbell ring. *Id.* ¶ 5. He did not recognize Fernandez. *Id.* ¶ 4.

13          Kisded was particularly alarmed by the unauthorized entrant given the  
14 ongoing COVID-19 pandemic, and resulting concerns for the health and safety  
15 of himself and his coworkers. *See id.* ¶ 7; *see also* Declaration of Davide Greco  
16 ("Greco Decl."), ¶ 4. In light of the COVID-19 pandemic, entrance to 1710 Ivar  
17 Avenue has been extremely limited. Kisded Decl., ¶ 3. No unnecessary people  
18 are admitted to the building, and no one is admitted without following COVID-  
19 19 safety protocols. *Id.*

20          Kisded saw that Fernandez had something in his hand, but was not  
21 wearing gloves, in violation of health and safety protocols at the building. *Id.*  
22 ¶¶ 3, 6. Nor did Fernandez clean his shoes on the provided sanitization mat,  
23 which is also required of all entrants into 1710 Ivar Avenue under COVID-19  
24 protocols. *Id.*

25          When Kisded saw a man he did not know enter the building without  
26 authorization, he told the man to exit the building and ring the bell for  
27 someone to come out to meet with him. *Id.* ¶ 8. Fernandez claimed that he  
28

1 had rung the bell. *Id.* Kisded explained that he had not heard the bell. *Id.*  
2 Kisded *again* asked Fernandez to please wait outside the building. *Id.*  
3 Fernandez refused. *Id.* ¶ 9.

4 Instead, Fernandez walked further into the building, and left the stack  
5 of papers on an unattended shelf. *Id.* ¶¶ 9-10. Kisded then explained that he  
6 could not receive any papers. *Id.* ¶ 10. Indignant, Fernandez stated: “too late,  
7 it’s done,” appeared to take Kisded’s picture, and left. *Id.*

8 Fernandez (1) never disclosed the purpose of his visit or the content of  
9 his papers, as required for substitute service under *Code of Civil Procedure* §  
10 415.20; (2) never stated that Mr. Miscavige was the intended recipient of the  
11 papers; and (3) never asked to see someone authorized to accept service. *Id.*  
12 ¶¶ 11-13.

13 Indeed, when Fernandez was instructed to leave the building and ring  
14 the bell so that he could be assisted, Fernandez refused. *Id.* ¶¶ 8-9.

15 Instead, Fernandez dropped a stack of papers,<sup>4</sup> which did not have an  
16 address, on an unattended shelf and left. *Id.* ¶¶ 10-12.

17 On December 10, 2020, Plaintiffs filed a Proof of Service and Declaration  
18 of Due Diligence of Carlos Fernandez claiming that service on Mr. Miscavige  
19 was accomplished via substitute service on December 2, 2020.

20 III. THE MOTION TO QUASH SHOULD BE GRANTED

21 “A defendant, on or before the last day of his or her time to plead or  
22 within any further time that the court may for good cause allow, may serve  
23 and file a notice of motion for one or more of the following purposes: To quash  
24 service of summons on the ground of lack of jurisdiction of the court over him  
25 or her.” *Code of Civil Procedure* § 418.10(a)(1).

26 \_\_\_\_\_  
27 <sup>4</sup> Though the summons lists the name of every defendant in this action,  
28 including CSI and RTC, the papers in no way indicated that they should be  
directed to Mr. Miscavige.

1 The service of process was supposedly mailed to Mr. Miscavige on  
2 December 2, 2020. Under *Code of Civil Procedure* § 415.20(b), the effective  
3 date of service is December 12, 2020, ten days later. Since this motion was  
4 filed on January 11, 2021, the motion is timely.

5 “[S]ervice of summons is not effective and the court does not acquire  
6 jurisdiction of the party unless the statutory requirements for service of  
7 summons are met.” *Borsuk v. Appellate Division of Superior Court*, 242 Cal.  
8 App. 4th 607, 612 (2015) (quoting *Engebretson & Co. v. Harrison*, 125 Cal.  
9 App. 3d 436, 443 (1981)).

10 “[C]ompliance with the statutes governing service of process is essential  
11 to establish that court’s personal jurisdiction over a defendant.” *Lebel v. Mai*,  
12 210 Cal. App. 4th 1154, 1160 (2012) (citing *Dill v. Berquist Constr. Co.*, 24 Cal.  
13 App. 4th 1426, 1439 (1994)).

14 Even “[k]nowledge by a defendant of a plaintiff’s action does not satisfy  
15 the requirement of adequate service of a summons and complaint.” *Renoir v.*  
16 *Redstar Corp.*, 123 Cal. App. 4th 1145, 1153 (2004) (citations omitted).

17 Thus, once a motion to quash is filed, the burden is on the plaintiff to  
18 prove by a preponderance of evidence that the service is valid and the court  
19 has jurisdiction over the person. *Bolkiah v. Superior Court*, 74 Cal. App. 4th  
20 984, 991 (1999); *see also Lebel*, 210 Cal. App. 4th at 1163 (“plaintiff bore the  
21 burden of showing facts requisite to a valid service”).

22 A. Plaintiffs’ Purported Attempts at Substituted Service Did Not  
23 Confer Jurisdiction

24 Substituted service of process is permitted only if personal service  
25 cannot be accomplished with “reasonable diligence.” *Code of Civil Procedure*  
26 § 415.20(b). Reasonable diligence may be shown by *multiple* attempts at  
27 personal service at a *proper* place. *See Am. Express Centurion Bank v. Zara*,  
28 199 Cal. App. 4th 383, 389 (2011) (repeated attempts at personal service are

1 required to show reasonable diligence). “[S]trict compliance with the provision  
2 requiring reasonable diligence” is required. *Evarrtt v. Superior Court*, 89 Cal.  
3 App. 3d 795, 801 (1979). “Perfunctory efforts” to personally serve a defendant  
4 do not satisfy the “reasonable diligence” requirement. *See id.* at 802; *see also*  
5 *Joe Hand Promotions, Inc. v. Saddeldin*, 2014 WL 1877428, at \*5 (E.D. Cal.  
6 May 9, 2014) (citing *Evarrtt*, 89 Cal. App. 3d at 802).

7 If personal service cannot be accomplished after reasonable diligence,  
8 service of process may be completed by:

9 leaving a copy of the summons and complaint at the person’s  
10 dwelling house, usual place of abode, usual place of business, or  
11 usual mailing address other than a United States Postal Service  
12 post office box, *in the presence of* a competent member of the  
13 household or *a person apparently in charge of his or her office*, place  
14 of business, or usual mailing address other than a United States  
15 Postal Service post office box, at least 18 years of age, *who shall be*  
16 *informed of the contents thereof*, and by thereafter mailing a copy of  
the summons and of the complaint by first-class mail, postage  
prepaid to the person to be served at the place where a copy of the  
summons and complaint were left.

17 *Code of Civil Procedure* § 415.20(b) (emphasis added).

18 Here, Plaintiffs failed to attempt personal service of Mr. Miscavige with  
19 reasonable diligence. They then failed to comply with the bedrock  
20 requirements for substitute service both by failing to leave a copy of the  
21 summons and complaint with a person in charge of the RTC office, and by  
22 failing to inform the “recipient” of the contents of the papers, much less to  
23 whom they were to be delivered.

24 1. 6331 Hollywood Boulevard is Not a Proper Place for Service

25 As Plaintiffs admitted, 6331 Hollywood Boulevard is the office address  
26 for CSI. FAC ¶ 7; *see Hearn Pacific Corp. v. Second Generation Roofing, Inc.*,  
27 247 Cal. App. 4th 117, 131–132 (2016) (“[A] pleading party may be bound by  
28 the factual allegations it makes in a complaint . . .”).

1 Although Plaintiffs have also asserted that 6331 Hollywood Boulevard is  
2 Mr. Miscavige's residence, they have offered *no evidence* supporting that  
3 baseless assertion. Nor could they: Mr. Miscavige does not live at 6331  
4 Hollywood Boulevard. Farny Decl., ¶ 2.

5 Mr. Lynn Farny is the Corporate Secretary of CSI. *Id.* ¶ 1. He has  
6 worked for CSI in an official capacity since 1984. *Id.* He is personally familiar  
7 with the building's uses. *Id.* ¶¶ 1-2. As Mr. Farny stated, Mr. Miscavige does  
8 not now live, and has never lived, at 6331 Hollywood Boulevard. *See id.* ¶ 2.

9 Therefore, any attempts to serve Mr. Miscavige at 6331 Hollywood  
10 Boulevard as his "dwelling house" or "usual place of abode" were not  
11 reasonable, as they were not made at a proper place, and cannot satisfy the  
12 reasonable diligence requirement for personal service under *Code of Civil*  
13 *Procedure* § 415.20(b).

14 2. Plaintiffs Did Not Exercise Reasonable Diligence Before  
15 Resorting to Substitute Service

16 "[T]he burden is upon the plaintiff to show reasonable diligence to effect  
17 personal service and each case must be judged upon its own facts." *Evartt*, 89  
18 Cal. App. 3d at 801.

19 California courts agree that, at minimum, "reasonable diligence" usually  
20 requires at least "two or three attempts to personally serve a defendant at a  
21 proper place." *See, e.g., Am. Express Centurion Bank*, 199 Cal. App. 4th at  
22 389.

23 Here, Plaintiffs' process server did not exercise reasonable diligence to  
24 effect personal service at 1710 Ivar Avenue before resorting to substitute  
25 service.

26 Indeed, each of Fernandez's three purported service attempts at 1710  
27 Ivar Avenue was perfunctory at best, and none was reasonably calculated to  
28 achieve personal service on Mr. Miscavige, who was known to be in Florida

1 (not California) on the days of the purported service attempts. Therefore,  
2 Plaintiffs could not have been trying to actually serve Mr. Miscavige.

3 On his first visit, Fernandez approached a CSI security guard (Mr.  
4 Sersen) who happened to be on the street outside the building, gestured  
5 towards 1710 Ivar Avenue, and asked whether it was the place to drop a  
6 package for Mr. Miscavige. Sersen Decl., ¶ 2. When Sersen indicated that it  
7 was not, Fernandez left. *Id.*

8 Fernandez made no attempt to serve Mr. Miscavige personally. He did  
9 *not ask* to meet with Mr. Miscavige, or even whether Mr. Miscavige generally  
10 worked in the building. *Id.* ¶ 3. He did *not state* that he was attempting to  
11 serve a summons and complaint (or anything else) on Mr. Miscavige (or  
12 anyone else), and he did *not ask* if there was anyone in the building who could  
13 assist him in that effort. *Id.* Fernandez made no attempt to ascertain  
14 whether Sersen had any connection with RTC's offices, or even knew how to  
15 reach Mr. Miscavige. *Id.*

16 Thus, Fernandez's purported service attempt on November 21, 2020 was  
17 not a good-faith effort to serve Mr. Miscavige, and should be disregarded.

18 On his second visit, Fernandez approached an open door and spoke only  
19 to a mail clerk (Mr. Tokunaga) who has no authority to speak on behalf of  
20 RTC, much less Mr. Miscavige. Indeed, Tokunaga has never met Mr.  
21 Miscavige, would not know whether Mr. Miscavige was in the building (or  
22 anywhere else) and would not know how to contact him. Tokunaga Decl., ¶ 7.

23 Fernandez took no steps reasonably calculated to personally serve Mr.  
24 Miscavige. He concealed the true purpose of his visit by telling Tokunaga only  
25 that he had a "delivery" for David Miscavige. When Tokunaga asked for an  
26 invoice, Fernandez falsely claimed he would check and come back later. *Id.* ¶  
27 4. Fernandez then left. *Id.*



1 Had Fernandez been interested in serving Mr. Miscavige, he would have  
2 at least asked to speak with someone in charge of RTC's offices, if not Mr.  
3 Miscavige himself. Instead, he gave so little information, all of which was  
4 intended to conceal his intentions, that Tokunaga had no reason to believe,  
5 and did not believe, that Fernandez was there to see Mr. Miscavige, much less  
6 to effect legal service of a summons and complaint (or anything else) on Mr.  
7 Miscavige (or anyone else). *See id.* ¶¶ 4, 6.

8 Thus, Fernandez's purported service attempt on November 25, 2020 was  
9 not a good-faith effort to serve Mr. Miscavige, and should be disregarded.

10 Indeed, RTC did not learn of either of Fernandez's November 2020 visits  
11 to 1710 Ivar Avenue until the Proof of Service was filed. *See* McShane Decl. ¶  
12 3.

13 On his final visit, Fernandez made *no* effort to personally serve Mr.  
14 Miscavige. Instead, Fernandez attempted a "drop-and-run" version of  
15 substitute service upon the first person he saw, ignoring that person's identity,  
16 position or authority (or lack thereof).

17 To that end, he never stated that he had papers for Mr. Miscavige, never  
18 informed anyone of the contents thereof, and never attempted to ascertain  
19 whether Mr. Miscavige was available. Kisded Decl., ¶¶ 11-13; Declaration of  
20 Davide Greco ("Greco Decl."), ¶¶ 5-6.

21 Fernandez *refused* directions to ring the doorbell and wait to be assisted,  
22 *dropped a stack of papers, which in no way indicated that it should be directed*  
23 *to Mr. Miscavige, on an empty shelf without explaining its significance,* and  
24 left. Kisded Decl., ¶¶ 8-13; Greco Decl., ¶¶ 6-7. Nothing about Fernandez's  
25 actions on December 2, 2020 was reasonably calculated to accomplish personal  
26 service on Mr. Miscavige.

27 Thus, none of Fernandez's cursory visits to 1710 Ivar Avenue constituted  
28

1 even one reasonably diligent attempt to serve Mr. Miscavige personally with  
2 the FAC. Plaintiffs have thus failed their statutory obligation to serve Mr.  
3 Miscavige personally and may not resort to substitute service. *See Code of*  
4 *Civil Procedure* § 415.20(b).

5 3. Even If Substitute Service Was Permitted — It Was Not —  
6 Plaintiffs Failed to Comply With The Statutory  
7 Requirements

8 Even if Plaintiffs’ purported attempts to serve Mr. Miscavige with the  
9 FAC personally were sufficient to establish reasonable diligence such that Mr.  
10 Miscavige could be served though substitute service — they were not —  
11 Plaintiffs’ purported substitute service attempt failed to satisfy the mandatory  
12 requirements of *Code of Civil Procedure* § 415.20(b).

13 Specifically, Fernandez failed to (1) leave the service papers with “a  
14 person apparently in charge of [Mr. Miscavige’s] office [or] place of business,”  
15 and (2) to “inform [that person] of the contents thereof.” *See id.*

16 Instead, Fernandez made his way into a mailroom, dropped a stack of  
17 papers, which did not indicate that it should be directed to Mr. Miscavige, on  
18 an empty shelf, and left. *Kisded Decl.* ¶¶ 8-12.

19 *Kisded*, the person to whom Fernandez spoke, is a mail and freight clerk  
20 who approached Fernandez because he saw an unauthorized person enter the  
21 building without complying with the building’s health and safety protocols for  
22 the COVID-19 pandemic. *Id.* ¶¶ 2-3, 6-7.

23 *Kisded* communicated that he was not authorized to receive “papers”  
24 (much less service of process), and immediately and repeatedly explained to  
25 Fernandez how to receive assistance: Simply ring the bell and wait for  
26 someone to come to the door. *Id.* ¶¶ 8, 10. Fernandez refused. *Id.* ¶ 9.

27 Thus, any assertion that *Kisded* was “apparently in charge of [Mr.  
28 Miscavige’s] office [or] place of business” is unreasonable.

1 But even if Kisdred were a proper person to accept substitute service —  
2 he was not — Fernandez failed to inform Kisdred of the contents of the stack of  
3 papers, or even for whom it was intended. *Id.* ¶¶ 11-13. Indeed, Fernandez  
4 never mentioned he had papers to serve Mr. Miscavige, and the papers  
5 themselves did not indicate to whom they should be directed. *Id.*

6 Thus, Plaintiffs’ substitute service attempt was insufficient to ensure a  
7 reasonable likelihood that the summons and FAC would reach their intended  
8 recipient. *See* 50A Cal. Jur. 3d *Process, Notices, and Subpoenas* § 26 (“Service  
9 must be made upon a person whose relationship with the person to be served  
10 makes it more likely than not that they will deliver process to the named  
11 party.”).

12 Far from meeting the requirements of the service statutes, or even  
13 demonstrating reasonable diligence, Plaintiffs are *still* failing to comply with  
14 their fundamental obligation to serve the FAC. Mr. Miscavige was not served,  
15 and the purported proof of service should be quashed.

16 IV. CONCLUSION

17 Mr. Miscavige respectfully requests that the Court grant this Motion to  
18 Quash.

19  
20 DATED: January 11, 2021 ELKINS KALT WEINTRAUB REUBEN  
21 GARTSIDE LLP

22  
23 By: 

24 JEFFREY K. RIFFER

25 Attorneys for Specially-Appearing Defendant  
26 David Miscavige  
27  
28



## Court Reservation Receipt

### Reservation

Reservation ID: 368970839993631373510631	Status: RESERVED
Reservation Type: Motion to Quash Service of Summons	Number of Motions: 1
Case Number: 19STCV29458	Case Title: CHRISSIE CARNELL BIXLER, et al. vs CHURCH OF SCIENTOLOGY INTERNATIONAL, et al.
Filing Party: David Miscavige (Defendant)	Location: Stanley Mosk Courthouse - Department 57
Date/Time: May 12th 2021, 8:30AM	Confirmation Code: CR-YQV NKZ PBNHE4A2MB4

### Fees

Description	Fee	Qty	Amount
Motion to Quash Service of Summons	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
TOTAL			\$61.65

### Payment

Amount: \$61.65	Type: MasterCard
Account Number: XXXX1226	Authorization: 04573Z

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